relevant provisions of the Manual of Patent Examining Procedure (M.P.E.P.) pertaining to unity of invention determinations.

The present application was filed under 35 U.S.C. §371 as a U.S. national stage application under the Patent Cooperation Treaty (PCT).

As stated in 1893.03(d) of the M.P.E.P.:

> Examiners are reminded that unity of invention (not restriction) practice is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 U.S.C. 371...
>
> The principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application. . . . The basic principle is that an application should relate to only one invention or, if there is more than one invention, that applicant would have a right to include in a single application only those inventions which are so linked as to form a single general inventive concept.
>
> A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art....

In the present case, the compositions of Group I and the methods of Groups II and VII share a special technical feature in that they are useful for the treatment of viral infection, particularly HCV infection. Thus, notwithstanding, the prospect for later rejoinder, at the very least, the methods claimed in groups II and VII should be examined together with the compositions of group I. It is noted in this connection that the examiner's bare allegation of

material difference does not constitute the showing required in M.P.E.P. §806.02(h) with respect to patentably distinctness of claims to a product and process of using.

The impropriety of these requirements is underscored by the fact that there was no lack of unity objection during the international stage of this application. Rather, the subject matter of all of the claims was treated as a single inventive concept. Accordingly, it should be evident that the present claims satisfy the unity of invention standards of the PCT.

The requirements for restriction and election of species in this case are also improper for failing to comply with relevant provisions of the M.P.E.P. pertaining to restriction of Markush claims. As noted in M.P.E.P. §803.02, it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. For the reasons stated above, the subject matter of the Group I, II and VII claims has unity of invention.

Because the November 29, 2007 Official Action fails to comply with established U.S. Patent and Trademark Office unity of invention and restriction practice guidelines, as demonstrated above, it is respectfully submitted that this restriction requirement should be reconsidered and withdrawn, at least with respect to the subject matter of claims 1-10, 31 and 32.

In order to be fully responsive to the above-mentioned requirements, Applicants hereby provisionally elect for examination in this application the subject matter of Group I, i.e. claims 1 and 2, as well as formula VII, which appears at page 44 of this application.

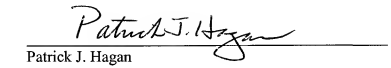
Applicants' elections in response to the present restriction and election of species requirements are without prejudice to their right to file one or more divisional applications, as provided in 35 U.S.C. §121, on the subject matter of any claims finally held withdrawn from

consideration in this application.

Early and favorable action on the merits of this application is respectfully requested.

Respectfully submitted,

DANN, DORFMAN, HERRELL and SKILLMAN



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